THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.27749 OF 1996

DATED 05th DECEMBER, 2006

BETWEEN:

Jakkamsetty Nookaiah

… Petitioner

AND

The Mandal Revenue Officer, Kaikalur, Krishna District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27749 OF 1996

ORDER:

The petitioner is a landless poor person. He was granted/assigned land admeasuring Acs.2.23 in survey Nos.735/1 and 735/2 situated at Sanarudravaram village. He allegedly took possession of the land and cultivating the same. The third respondent, it is alleged, is enemically disposed off towards petitioner and tried to interfere with the possession. The petitioner then filed suit being O.S.No.166 of 1996 on the file of the Court of the District Munsif, Kaikalur against third respondent and obtained temporary injunction in I.A.No.801 of 1996. Thereafter, second respondent allegedly threatened to dispossess the petitioner. The writ petition is therefore filed seeking a writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioner as illegal and arbitrary.

The first respondent has filed counter affidavit *inter alia* stating as under.

> … It is fact that the petitioner was granted patta for the lands Ac.0.98 cents and Ac.1.25 cents in R.S.No.735/1 and 2 respectively of Sanarudravaram village in the year 1980. During enquiries in village, it is brought to light, that the petitioner has leased out the scheduled land to the 3rd respondent in writ and left the village and residing his native place Penugonda of West Godavari District. Subsequently the respondent No.3, Sri Nunna Seshagiri Rao, S/o Venkateswarlu, resident of Sanarudravaram village, has obtained patta in his favour from the then Mandal Revenue Officer, Kalidindi. At present the said land is under the possession and enjoyment of Sri N.Seshagiri Rao and Sri Seshagiri Rao is paying land revenue to the Government. The resent writ petitioner is not cultivating the land and he has not paid the taxes to the Government.

The petitioner has not filed any reply affidavit denying the above averments.

The learned counsel for the petitioner submits that when the land is assigned to the petitioner, without cancelling the same, the assignment of the land to the third respondent is illegal and arbitrary to the Board Standing Orders. The counter affidavit does not even refer to any cancellation of the assignment. This only shows that the

assignment made in favour of petitioner in 1980 is not cancelled still. As stated in the counter affidavit, the petitioner leased out the land to third respondent and left to his native place Penugonda in West Godavari District. For which reason, the land was assigned to third respondent. In these circumstances, the petitioner may approach the first respondent seeking assignment of suitable land. As and when the petitioner makes application, if suitable land is available in Sanarudravaram, his request may be considered.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

05.12.2006.
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